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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,616	03/18/2004	Jonathan Barsade	BAR-6	5894
24039 INNOVAR, LLC P O BOX 250647 PLANO, TX 75025	7590 10/09/2007		EXAMINER ERB, NATHAN	
			ART UNIT 3628	PAPER NUMBER
			MAIL DATE 10/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/803,616

Applicant(s)

BARSADE ET AL.

Examiner

Nathan Erb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20041130</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 8 is objected to because of the following informalities:
  - a. In the third line of claim 8, please remove the first occurrence of the phrase "the consumer."
  - b. In the fourth line of claim 8, please replace the phrase "and or" with --and/or--.Appropriate correction is required.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 21-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claim is directed to a computer program, without the computer-readable medium needed to realize the computer program's functionality. Note that a "logic engine" can be interpreted to be a computer program. Therefore, the claim is directed to nonstatutory functional descriptive material. See MPEP 2106.01(I).

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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5. Claims 1-16 and 18-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Sullivan, U.S. Patent Application Publication No. US 2003/0093320 A1.

As per **Claim 1**, Sullivan discloses:

- a client logic engine-based system for handling calculation and payment of one or more third party fees due to a third party as part of one or more wide area network transactions between a first party and a second party, wherein the first, second and third parties are users of distinct first, second and third nodes, respectively, of the wide area network (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0124]-[0126]);

- a wide area network comprising multiple nodes enabling the transfer of transaction data information packets between the first party and the second party (paragraph [0046]);

- at least one logic engine residing on a node of the wide area network, the logic engine being a transaction client logic engine, residing on a node within the wide area network, that: includes rules of logic for the determination of what action is required on transaction data information packets; receives one or more transaction data information packets related to one or more wide area network transactions between the first and the second party; determines what action is required on received transaction data information packets; and based upon said determination, transmits the information packets between a third party fee calculation client agent, if present, and itself, between a third party fee fulfillment client agent, if present, and itself, or between another node of another system of the wide area network and itself (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 2**, Sullivan further discloses wherein at least two of the logic engines are present (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 3**, Sullivan further discloses wherein each logic engine present is located at a node distinct from the other logic engine present (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 4**, Sullivan further discloses wherein all three logic engines are present (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 5**, Sullivan further discloses wherein each logic engine present is located at a node distinct from the other logic engines present (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 6**, Sullivan further discloses wherein the first party is a consumer and the second party is a merchant (paragraph [0046]).

As per **Claim 7**, Sullivan further discloses wherein the wide area network is the Internet (paragraph [0039]; paragraph [0046]).

As per **Claim 8**, Sullivan further discloses wherein the merchant is an on-line merchant having a website resident on a node of the wide area network, the transaction is an on-line electronic transaction conducted over the wide area network, and the consumer is obtaining a good and/or service from the merchant (paragraph [0039]; paragraph [0046]).

As per **Claim 9**, Sullivan further discloses wherein the electronic transaction is an e-commerce payment transaction (paragraph [0046]).

As per **Claim 10**, Sullivan further discloses wherein at least one of the third parties is a government agency and at least one of the third party fees is sales tax (paragraph [0007]; paragraph [0036]).

As per **Claim 11**, Sullivan further discloses wherein at least one of the third parties is a logic engine service provider that controls the system and provides for calculation and/or payment of at least one third party fee to the government agency (paragraphs [0005]-[0007]; paragraph [0061]; paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 12**, Sullivan further discloses wherein at least one of the third party fees is a fee due to the logic engine service provider (paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 13**, Sullivan further discloses a logic protocol that calculates the amount of third party fee due to the logic engine service provider (paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 14**, Sullivan further discloses a logic protocol that affects payment of a third party fee to the logic engine service provider (paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 15**, Sullivan further discloses a logic protocol that determines if a transaction data information packet is to be transmitted to the third party fee calculation client agent, the third party fee fulfillment client agent and/or another node of the wide area network (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 16**, Sullivan further discloses a logic protocol that determines if third party payment data is to be added to the transaction data information packet, and, if so, adds the payment data (paragraphs [0005]-[0007]; paragraph [0046]; paragraph [0061]; paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 18**, Sullivan further discloses a service provider fee logic engine, residing on a node within the wide area network, that includes rules of logic for the determination of a

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third party fee owed to a service provider of the system (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0122]; paragraph [0124]-[0126]).

As per **Claim 19**, Sullivan further discloses wherein the third party fee due to the service provider is a fixed fee (paragraph [0122]).

As per **Claim 20**, Sullivan further discloses wherein the third party fee due to the service provider is a prorated or incremental fee (paragraph [0122]).

As per **Claim 21**, Sullivan discloses:

- a transaction client logic engine, residing on a node within the wide area network (paragraphs [0005]-[0007]; paragraph [0039]; paragraphs [0124]-[0126]);
- includes rules of logic for the determination of what action is required on transaction data information packets (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);
- receives one or more transaction data information packets related to one or more wide area network transactions between a first party and a second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);
- determines what action is required on received transaction data information packets (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);
- based upon said determination, transmits the information packets between a third party fee calculation client agent, if present, and itself, between a third party fee fulfillment client



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agent, if present, and itself, or between another node of another system of the wide area network and itself (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 22**, Sullivan discloses:

- a third party fee calculation client logic engine, residing on a node within the wide area network distinct from the nodes of a first party and a second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraphs [0124]-[0126]);

- includes rules of logic for the determination of fees owed to a third party on one or more transactions between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);

- receives one or more information packets from a transaction client logic engine, if present (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);

- determines the third party fees owed on the transaction between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);

- transmits to a transaction client agent, if present, a transaction data information packet including said third party fees owed (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

As per **Claim 23**, Sullivan discloses:

- a third party fee fulfillment client logic engine, residing on a node within the wide area network distinct from the nodes of a first party and a second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0122]; paragraphs [0124]-[0126]);
- includes rules of logic for the determination of fees owed to one or more third parties on one or more transactions between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);
- receives one or more information packets from the transaction client logic engine, if present, containing data for the transfer of transaction funds between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraphs [0124]-[0126]);
- determines the third party fees owed on the transaction between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);
- causes the deduction of the third party fees owing from funds transferred between the first and the second party (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]);
- causes the transfer of the third party fees to said one or more third parties (paragraphs [0005]-[0007]; paragraph [0039]; paragraph [0046]; paragraph [0054]; paragraph [0061]; paragraph [0124]-[0126]; paragraphs [0130]-[0131]).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sullivan.

As per **Claim 17**, Sullivan fails to disclose an authorization and capture client agent.

However, that element/limitation was well-known to one of ordinary skill in the art at the time of applicants' invention. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention to modify the invention of Sullivan such that it includes an authorization and capture client agent, as was well-known to one of ordinary skill in the art at the time of applicants' invention. Motivation is provided in that it was well-known to one of ordinary skill in the art at the time of applicants' invention that an authorization and capture client agent is useful for processing credit card payments in online transactions.

***Conclusion***

8. **Examiner's Note:** Examiner has cited particular portions of the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially

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teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

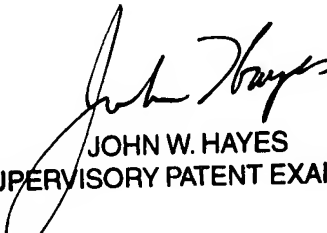
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Erb whose telephone number is (571) 272-7606. The examiner can normally be reached on Mondays through Fridays, 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nathan Erb  
Examiner  
Art Unit 3628

nhe

  
JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER